



BILLING CODE 3290-F-2

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**2012 SPECIAL 301 OUT-OF-CYCLE REVIEW OF NOTORIOUS MARKETS:
REQUEST FOR PUBLIC COMMENTS**

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: In 2010, the Office of the United States Trade Representative (USTR) began publishing the notorious market list as an “Out of Cycle Review” separately from the annual Special 301 report. This review of Notorious Markets (“Notorious Markets List”) results in the publication of examples of Internet and physical markets that have been the subject of enforcement action or that may merit further investigation for possible intellectual property infringements. The Notorious Markets List does not represent a finding of violation of law, but rather is a summary of information that serves to highlight the problem of marketplaces that deal in infringing goods and which help sustain global piracy and counterfeiting. USTR is hereby requesting written submissions from the public identifying potential Internet and physical notorious markets that exist outside the United States and that may be included in the 2012 Notorious Markets List.

DATES: The deadline for interested parties to submit written comments is September 14, 2012.

ADDRESSES: All written comments should be sent electronically via

<http://www.regulations.gov>, docket number USTR–2012–0011. Submissions should contain the term “2012 Out-of-Cycle Review of Notorious Markets” in the “Type comment” field on *<http://www.regulations.gov>*.

FOR FURTHER INFORMATION CONTACT: Paula Karol Pinha, Director for Intellectual Property and Innovation, Office of the United States Trade Representative, at (202) 395– 5419. Further information about Special 301 can be found at <http://www.ustr.gov>.

SUPPLEMENTARY INFORMATION:

1. Background

Pursuant to the Administration’s 2010 Joint Strategic Plan on Intellectual Property Enforcement, USTR began conducting an Out-of-Cycle Review of Notorious Markets, resulting in publication, separately from the annual Special 301 report, of a “Notorious Markets List.” (The Notorious Markets List had previously been included in annual Special 301 reports.) USTR published the first stand alone Notorious Markets List in February 2011, and published the second List in December 2011. The December 2011 Notorious Markets List identified 34 markets, including both physical and Internet markets, as examples of marketplaces that have been the subject of enforcement action or that may merit further investigation for possible intellectual property rights infringements, or both.

The Notorious Markets List does not reflect findings of violation of law, nor does it reflect the United States’ analysis of the general climate of protection and enforcement of intellectual

property rights in the countries where the markets were located. Rather, the list identifies certain prominent examples of markets in which pirated or counterfeit goods were reportedly available. As part of its outreach efforts, the United States encourages the responsible authorities to step up efforts to combat piracy and counterfeiting in these and similar markets.

2. Public Comments

a. Written Comments

The Special 301 Subcommittee invites written submissions from the public concerning potential examples of Internet and physical “notorious markets.” Notorious markets are those where counterfeit or pirated products are prevalent to such a degree that the market exemplifies the problem of marketplaces that deal in infringing goods and help sustain global piracy and counterfeiting.

b. Requirements for Comments

Interested parties must submit written comments by September 14, 2012. Written comments should be as detailed as possible and should clearly identify the reason or reasons why the nature or scope of activity associated with the identified market or markets exemplify the problem of marketplaces that deal in infringing goods and help sustain global piracy and counterfeiting. Potentially helpful information could include: location; principal owners/operators (if known); types of products sold, distributed, or otherwise made available; information on the volume of Internet traffic associated with a website (such as a recent Alexa ranking); any known civil or criminal enforcement activity against the market; other efforts to remove/limit infringing materials (e.g., a website’s responsiveness to requests to remove or disable access to allegedly

infringing material); and any other relevant information, including with respect to positive progress made by operators of the market in addressing infringing activity. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses. Comments must be in English.

All comments should be sent electronically via [http:// www.regulations.gov](http://www.regulations.gov), docket number USTR–2012–0011. To submit comments to <http:// www.regulations.gov>, find the docket by entering the number USTR–2012–0011 in the “Enter Keyword or ID” window at the <http://www.regulations.gov> home page and click “Search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search results page, and click on the link entitled “Submit a comment.” (For further information on using the <http://www.regulations.gov> website, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.) The <http://www.regulations.gov> site provides the option of providing comments by filling in a “Type comment” field, or by attaching a document. USTR prefers that comments be provided in an attached document. If a document is attached, please type “2011 Out-of-Cycle Review of Notorious Markets” in the “Type comment” field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the “Type comment” field.

3. Inspection of Comments

USTR will maintain a docket on the 2012 Out-of-Cycle Review of Notorious Markets that is accessible to the public. The public file will include all comments received which will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Comments may be viewed on the <http://www.regulations.gov> website by entering docket number USTR–2012–0011 in the search field on the home page.

4. Business Confidential Information

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such, the submission must be marked “Business Confidential” at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, “Business Confidential” should be included in the “Type comment” field. Anyone submitting a comment containing business confidential information must also submit as a separate submission a nonconfidential version of the confidential submission, indicating where confidential information has been redacted. The non-confidential summary will be placed in the docket and open to public inspection.

Stanford K. McCoy,
Assistant U.S. Trade Representative for Intellectual Property and Innovation

[FR Doc. 2012-19840 Filed 08/13/2012 at 8:45 am; Publication Date: 08/14/2012]